Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers	))	WT Docket No. 05-265

COMMENTS OF VERIZON WIRELESS

John T. Scott, III
Vice President and Deputy General
Counsel - Regulatory Law

Andre J. Lachance
Regulatory Counsel

Verizon Wireless
1300 I Street, N.W.
Suite 400-West
Washington, DC 20005
(202) 589-3760

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SUMMARY

Verizon Wireless opposes adopting any form of automatic roaming requirement for any segment of the commercial mobile radio services ("CMRS") market. Verizon Wireless agrees that the Commission should not impose an automatic roaming rule unless it is clear that market forces alone are not sufficient to ensure the widespread availability of competitive roaming services. Competition is strong in the CMRS marketplace. This competition exerts a downward pressure on roaming rates and ensures that all carriers that wish to enter into an automatic roaming agreement can do so on terms that are not unreasonably discriminatory. Market-based roaming practices have also fueled investment in new technologies and provided incentives to spread wireless services to rural America. There is, in short, no market failure and thus basis for the Commission to impose any additional roaming regulations.

Despite the overwhelming evidence that competitive forces are working to make automatic roaming available to all carriers at reasonable rates, some carriers have argued that industry consolidation will harm their ability to obtain roaming agreements. However, that consolidation impacted roaming in only a few markets, and in those markets the FCC already carefully reviewed the market impacts -- including the impact on roaming -- and determined that no intervention was warranted.

Another concern raised by small and rural providers is that their roaming revenues are on the decline and that the disparity in size between rural and nationwide service providers results in asymmetrical roaming agreements that

benefit larger carriers. Any decline in rural provider roaming revenues is a result of a properly functioning market, not a basis for FCC intervention. Moreover, with respect to the disparity issue, because roaming terms and conditions vary depending on a number of factors that have nothing to do with a carrier's size, small and rural service providers are able to negotiate on even terms with larger carriers. In fact, Verizon Wireless does not have any roaming agreements with rural providers that require the rural provider to pay more for roaming than what Verizon Wireless pays to the rural service provider.

Verizon Wireless opposes the regulatory proposals discussed in the NPRM. It opposes any mandate that a carrier offer roaming agreements to facilities-based providers in the same geographic market – so called "home roaming." Mandating home roaming would eliminate carrier incentives to build out networks and compete on the basis of service coverage and quality.

The Commission should also not adopt any roaming regulation that favors small or rural providers or that applies only to a segment of the CMRS industry. Under the current market-based system, rural providers are able to obtain automatic roaming agreements at competitive rates. Any rule aimed at protecting small and rural service providers would distort the market incentives that currently exist and may actually harm rural subscribers and providers. Any rule that applies only to small and rural providers would also run afoul of Congress' intent to have the FCC apply symmetrical, consistent regulations to competing CMRS providers.

Likewise, Verizon Wireless opposes automatic roaming rules for analog or enhanced digital networks. A requirement for analog service providers is not necessary and would distort the market-based incentives for such carriers to update to digital technology. An automatic roaming requirement for enhanced digital networks would likely have a chilling effect on carriers' willingness to take the financial risks associated with deploying new technologies.

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Verizon Wireless hereby submits its comments in response to the Notice of Proposed Rulemaking ("NPRM") released by the Federal Communications Commission ("FCC" or "Commission") in the above-captioned proceeding. In the NPRM, the Commission generally seeks information and comments pertaining to Commercial Mobile Radio Services ("CMRS") roaming practices. The Commission plans to use the information it gathers in this proceeding to determine whether to retain the existing CMRS manual roaming requirement or to impose an automatic roaming requirement.

Verizon Wireless believes that the record will show that despite the concerns expressed by some carriers in FCC merger proceedings, the CMRS roaming marketplace is functioning efficiently. Market-based roaming practices have fueled investment in new technologies and produced many benefits to consumers of CMRS products and services. The market has not failed to ensure that carriers can obtain CMRS roaming agreements at reasonable rates and that customers throughout the country can benefit from nationwide calling plans. As such, there is no basis for the FCC to adopt any mandatory automatic roaming requirement.

I. FACTS ABOUT ROAMING

In the NPRM, the Commission seeks factual information about the roaming marketplace and how it works. Prior to discussing the policy issues raised in the NPRM, therefore, Verizon Wireless provides the following background on current roaming practices.

No single CMRS provider has ubiquitous service coverage in the United States. Because customers increasingly demand the ability to use their wireless services as they travel outside their home carriers' networks, carriers have responded with service plans that allow customers to roam onto other carriers' networks.

Carriers have a wide variety of rate plans and various ways of treating roaming charges within those plans. Carriers offer plans that restrict roaming, plans that allow limited or regional roaming, and plans that allow national roaming. Some plans allow roaming and separately charge for each roaming minute, other plans allow a carriers' customers to roam for an included fee provided that the customer is located in a preferred roaming partner's service area, and other plans allow unrestricted nationwide roaming. Because most carriers offer customers the ability to roam, carriers must negotiate automatic roaming agreements with other carriers to allow their customers to roam seamlessly (i.e., without intervention by an operator or other manual roaming process) on other carriers' networks.

All first generation cellular networks were based on analog technology. As a result, network technology did not prevent carriers from entering into automatic roaming agreements with other cellular providers.[1] Since the advent of second-generation digital networks, however, the technologies deployed by carriers have not always been compatible. Accordingly, today, while legacy analog roaming agreements still exist, carriers typically enter into automatic roaming agreements with carriers sharing the same digital technology.

Technology also plays an important role in the scope of services provided under roaming agreements. Some services that carriers offer require that networks and handsets have certain capabilities for those services to work. If a roaming partner has not made those network upgrades and/or if their subscribers' handsets do not have the requisite capabilities, then not all services will be able to be provided to roaming customers. For example, in the data market, for roaming to occur over advanced CDMA 1X EVDO networks, both roaming partners must have implemented 1X EVDO technology on their networks, and customers must have

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[1] Older technology handsets, however, did limit roaming partner choices. These handsets, some of which are still in use today, could not be programmed to enable subscribers to roam onto preferred carriers' networks when away from the home market. Rather, these cellular phones were programmed only to roam on the A or B cellular network, depending on the home market of the subscriber, and had to be manually re-programmed to roam onto the other network. As a result, early on, the A-side cellular providers entered roaming agreements primarily with other A-side carriers, and B-side carriers made agreements primarily with other B-side carriers.

handsets, computer smart cards or computer chipsets that support IX EVDO capabilities. In addition, as discussed below, the carriers must establish a means to connect and exchange roaming traffic. If the capabilities of the carriers do not match, roaming will not be possible for all products and services. One of Verizon Wireless' primary goals in negotiating automatic roaming agreements is to facilitate the ability of its customers to use their advanced digital services wherever they roam.

Another goal of carriers' roaming strategy is to lower roaming costs. Carriers manage their roaming costs in a number of ways. First, carriers may seek to acquire spectrum and build new networks or acquire existing networks in certain markets to lower roaming costs. Second, carriers seek to negotiate the lowest possible roaming rates with other carriers. Because automatic roaming rates, to date, are market-based, the rates negotiated vary depending on a number of factors.

Certainly one such factor is the size of the roaming carriers' customer base. If a carrier seeking a roaming arrangement (the "home carrier") can will send a high volume of traffic onto another ("serving") carrier's network, it can often negotiate a relatively lower roaming rate with the serving carrier. However, perhaps a more important factor than traffic volume is the availability of other sources of supply.[2] For example, if a carrier is the only CDMA carrier in a market,

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[2] Other factors that influence negotiated roaming rates include the extent to which the roaming partner has implemented advanced digital technologies, thus allowing advanced services to work in the foreign market, and the scope of geographic coverage within the market.

then that carrier can demand a higher price for roaming on its network than a carrier in a market with multiple sources of supply.[3] This factor enables many rural service providers to negotiate very favorable roaming rates with larger carriers. Indeed, the highest roaming rates Verizon Wireless pays are typically to rural carriers.[4]

Carriers also seek to manage roaming costs by directing roaming traffic onto the networks of the carriers with which they have the most favorable roaming rates, referred to by Verizon Wireless as "preferred roaming partners." Carriers use preferred roaming lists ("PRLs") to accomplish this routing of roaming traffic. PRLs are lists of carrier system identification numbers ("SIDs") stored in the handset. When a subscriber leaves the Verizon Wireless network, the phone is programmed to search for the SID of a preferred roaming partner and establish service through that carrier's network rather than setting up calls on the network of a higher

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[3] In circumstances when a rural CDMA carrier is not the only CDMA carrier in the market, Verizon Wireless has incentives to offer other CDMA providers in the market attractive rates so as to preserve competition among the carriers and better enable Verizon Wireless to obtain competitive roaming rates in that market.

[4] Many carriers acquired CMRS licenses in order to provide roaming services to other carriers. These so-called "tollgate" providers built networks covering areas in rural markets, such as along major highway or near popular resorts where roaming traffic is common, and charged other carriers high rates for the privilege of allowing customers to roam in those areas. Oftentimes, these carriers had few, if any, of their own customers.

roaming-cost carrier. Subscribers are encouraged to update their PRLs frequently in order to maintain the most up-to-date roaming information.[5]

The vast majority of Verizon Wireless' automatic roaming agreements are reciprocal; meaning that each carrier obtains the right to have its customers roam on the other carrier's network. Some agreements contain different pricing tiers for different volumes of roaming traffic. Most of Verizon Wireless' roaming agreements are also symmetrical, meaning that the per-minute rate Verizon Wireless pays for the right to roam on the other's network is the same that Verizon Wireless charges for roaming on its network. In virtually every reciprocal automatic roaming agreement that Verizon Wireless has where the rates are not symmetrical, the carrier paying the higher rate is Verizon Wireless. The most asymmetrical roaming agreements -- in terms of requiring Verizon Wireless to pay significantly more to roam on the partner's network than Verizon Wireless charges for roaming on its network -- Verizon Wireless has are with certain rural CMRS providers.

With the growth of data services, there is increasing demand for data roaming. Older data services typically traveled over the same network as voice services and therefore could be transferred and processed through the same traffic clearing houses as voice traffic. Newer data services, however, do not pass over the voice network platform. Accordingly, roaming partners must establish different methods of exchanging data traffic in order to facilitate data roaming for these

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[5] PRLs can be updated remotely on most new handsets by dialing a carrier-designated number when on the home provider network.

services. Rather than establishing direct connections with each roaming partner, Verizon Wireless uses common transport and settlement vendors to exchange and track data roaming traffic. Establishing and testing connections through these vendors takes time and often requires carriers to update networks, add network components, and add data network expertise in order to implement a data roaming arrangement. Smaller carriers that approach Verizon Wireless seeking data roaming typically do not initially have the network and personnel resources to facilitate the exchange of data traffic. In these situations, Verizon Wireless must spend considerable time and effort in educating these partners before a data roaming agreement can be implemented. As a result, implementing data roaming cannot always be done quickly.

II. DISCUSSION

A. There is No Failure in the CMRS Roaming Market.

The FCC has stated that it will not adopt an automatic roaming regulation unless there is clear evidence of market failure.[6] In this proceeding, therefore, the Commission seeks information that will enable it to assess whether the market is working to ensure that carriers wishing to obtain automatic roaming agreements

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[6] Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services, *Notice of Proposed Rulemaking*, WT Docket No. 00-193, 15 FCC Rcd 21628, 21635 (2000) (hereinafter "2000 NPRM") ("we do not believe we should adopt any automatic roaming rule unless it is clear that providers' current practices are unreasonably hindering the operation of the market to the detriment of consumers"). *See also*, NPRM at 11-12.

can do so and to ensure that customers in all markets can obtain wireless service when they travel.

Verizon Wireless believes that the current system of market-based automatic roaming agreements has played an important role in the continued development of innovative new services and lower prices in the wireless marketplace. The market continues to function and roaming charges have steadily declined. Accordingly, Verizon Wireless opposes any automatic roaming regulation.

In the recently released *Tenth CMRS Competition Report*, the Commission found that despite the consolidation that has taken place, the CMRS industry remains highly competitive and carriers continue to behave in a competitive manner. As evidence of this competition, the FCC stated that the number of areas with three or more, four or more, and five or more mobile telephone service providers has remained roughly the same despite consolidation. The FCC concluded that competitive pressure continues to compel carriers to introduce innovative pricing plans and service offerings and has resulted in new services and brands aimed at previously underserved market segments. The FCC stated that technological innovation continues to occur with new technologies being implemented by carriers and competition on the increase for mobile broadband services. As further evidence of the competitive marketplace, the Commission found that carriers are attempting to differentiate themselves from the competition by touting their network, customer service, or other advantages.[7]

The Commission's long-standing reliance on market forces to drive roaming arrangements has played an important role in fueling CMRS competition. Because under the current system, carriers know that they do not automatically have to make products and services available to competitors through roaming agreements, carriers are more willing to take risks and invest heavily to develop new products and services that might give them a market advantage and lead to a superior return on their investment. In the last ten years, the current system has spurred the change out in carrier networks from analog to second-generation digital technology and now is driving the accelerating transition to third-generation networks. Market-driven innovation is working.

While carriers certainly want to reap benefits from the new products and services they develop, the Commission need not be worried that carriers will refuse to make innovations available to roaming partners. Customers that buy a new product or service in their home market want to have those capabilities when they travel. Accordingly, carriers offering the new product or service have the incentive to negotiate when to make the innovations available to their roaming partners at competitive rates.

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[7] Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, *Tenth Report*, WT Docket No. 05-71, FCC 05-173 (released September 30, 2005) (hereinafter "Tenth CMRS Competition Report") at 4-5.

Another way in which competitive roaming policies benefit consumers is by providing incentives to carriers to develop networks capable of providing advanced services to customers. In the roaming marketplace, carriers with advanced services are willing to give favorable roaming terms to other carriers that have implemented similar advanced technology in their networks so that when customers roam they can use these same advanced services. As such, the marketplace provides incentives to carriers to modernize their networks. This market-based incentive helps to spread the benefits of advanced wireless technologies to rural markets more quickly.

Competition in the CMRS marketplace has had a profound effect on roaming rates and practices. Customers increasingly demand the ability to travel outside of their home markets and use their wireless services as they travel. In response, carriers have developed regional and national calling plans that allow customers to roam onto other carrier networks. Competitive pressures have also forced carriers big and small to lower costs in an effort to offer lower prices to their customers. One of the most significant costs carriers face is the cost of roaming. Thus, the healthy competition in the CMRS marketplace has exerted a downward pressure on CMRS roaming rates.

The Commission's policy to allow competitive forces to work in the roaming services market is at least partially responsible for driving carriers to expand their geographic footprints into rural areas. For years, some cellular carriers serving rural markets extracted high roaming rates from carriers looking to offer their customers an expanded service area through roaming. Rather than seeking regulatory intervention by the FCC to lower these rates, most carriers have chosen to work within the market structure to address the problem. Carriers have elected to eliminate the most egregious roaming costs by expanding into rural markets through acquiring new licenses or purchasing existing carriers' networks. As a result of these efforts, competition has expanded into rural markets more rapidly and roaming rates have steadily declined.[8] Indeed, Verizon Wireless' experience is that the average roaming rates today are only about ten percent of what they were ten years ago.

Despite the network expansion that has taken place, large carriers like Verizon Wireless continue to depend on roaming agreements with small, medium and large CMRS providers to ensure ubiquitous nationwide service at competitive rates. Roaming is a necessary component of nationwide service and will continue to be for the foreseeable future. As evidence of this fact, Verizon Wireless continues to be a net payer for roaming services, i.e., it pays out more dollars in roaming fees than it takes in from other carriers. Since Verizon Wireless buys more roaming services than it sells, it is not in its best interest to charge high roaming rates to its roaming partners. Moreover, because carriers deploying the same network technology – CDMA in the case of Verizon Wireless – benefit from one another to offer nationwide calling plans to their customers, carriers do not typically deny automatic roaming to other carriers using compatible technologies. Indeed, Verizon

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[8] The FCC recently found that 97 percent of the total United States population lives in areas served by three or more mobile service providers. *Id.*, at 2.

Wireless' policy is to attempt to negotiate roaming agreements with all other CDMA carriers requesting such agreements.[9]

Despite the overwhelming evidence that competitive forces are working to make automatic roaming available to all carriers at reasonable rates, the FCC and some carriers have raised concerns about the roaming marketplace. In the sections below, Verizon Wireless addresses these particular concerns.

1. Industry consolidation has not significantly affected the availability of roaming partners.

In the NPRM, the Commission notes that a number of interested parties filed comments in various CMRS merger proceedings arguing that the mergers of Cingular and AT&T Wireless, ALLTEL and Western Wireless, and Nextel and Sprint will harm carriers' ability to obtain roaming agreements in rural areas.[10] These concerns are speculative.

One reason why CMRS providers merge is to expand the footprint of the combined entity and decrease reliance on roaming to provide nationwide coverage. From that perspective, the mergers, and particularly the mergers involving two carriers using the same digital technology (Cingular/AT&T Wireless and ALLTEL/Western Wireless) will diminish Cingular and ALLTEL's reliance on

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9 While every negotiation may not lead to a roaming agreement, Verizon Wireless is not aware of any situation at this time where a CDMA carrier has requested an automatic roaming agreement that has not either resulted in an agreement or where there are not ongoing negotiations toward such an agreement.

10 NPRM, at 6-8.

roaming to serve the areas where they expanded by virtue of the mergers.[11] However, since the carriers using the same technology were likely already roaming on their merger partner networks, the mergers did not likely significantly affect the demand for rural carriers' roaming services.

The more significant effect on the roaming market that could result from mergers would be if potential roaming partners were eliminated in a significant number of markets. However, this effect could only occur (1) where the merging carriers use the same network technology; (2) in markets where the merging carriers' pre-merger networks overlapped; and (3) where the parties were not forced to divest one of the overlap properties as a condition of the merger.

In the Cingular/AT&T Wireless merger, these circumstances were present in some markets. In that case, however, the FCC determined that because roaming services have become increasingly competitive and because there will still be two nationwide GSM carriers after the merger, the merger would not adversely affect the roaming market.[12] In the Nextel/Sprint merger, there could be no diminution of roaming supply since Nextel and Sprint did not deploy the same network technology.

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[11] In the case of Sprint/Nextel, the merger does not immediately reduce Sprint's reliance on roaming since Sprint and Nextel use different digital technologies. Only when and if Sprint expands its CDMA footprint into Nextel license areas will Sprint realize a reduction in its need for roaming agreements in those markets.

[12] Application of AT&T Wireless Services, Inc. and Cingular Wireless Corporation, WT Docket No. 04-70, *Memorandum Opinion and Order*, 19 FCC Rcd 21522, 21588 (2004) (hereinafter "Cingular-ATTW Merger Order").

Similarly, the ALLTEL/Western Wireless merger will not significantly diminish the availability of roaming partners in rural markets. While ALLTEL and Western Wireless both used CDMA digital technology and had pre-merger markets that overlapped, there were ultimately only three markets where ALLTEL and Western Wireless overlapped and the Commission did not require divestiture.[13] In each of these markets, the Commission determined that the market would remain competitive after the merger based on a number of factors, including roaming.[14]

2. Rural carriers are well positioned to negotiate nondiscriminatory roaming agreements.

The Commission notes in the NPRM that a number of rural carriers raised concerns in the recently concluded *Tenth CMRS Competition Report* proceeding that the amount of roaming traffic small carriers exchange with large carriers is on the decline as large carriers enter into roaming agreements with other large carriers. These carriers also express concerns that large carriers use their market power to demand asymmetric roaming rates from small and rural carriers.[15] These claims are invalid.

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[13] These markets are Lincoln, Nebraska; Missouri RSA 9; and Texas RSA 7.

[14] Applications of Western Wireless Corporation and ALLTEL Corporation for Consent to Transfer Control of Licenses and Operations, WT Docket 05-50, FCC 05-138, *Memorandum Opinion and Order*, (released July 19, 2005) at paras. 108-131 and 162 (hereinafter "ALLTEL Merger Order").

[15] NPRM, at 8-9.

Any decline in roaming traffic on small carrier networks is a result of a properly functioning market, not a basis for FCC intervention. The Commission's goal in this proceeding appears to be, and should be, to ensure that the marketplace is working to make automatic roaming agreements available to carriers that desire such agreements so that they may offer roaming to their customers if they so choose. The Commission should not attempt through its roaming policies to reward rural providers that built business plans primarily based on extracting roaming fees from other carriers.

As discussed above, many small rural carriers entered the market and built networks primarily to provide roaming service to other service providers. A number of these carriers still exist today. In many cases, these carriers have few, if any, customers in their rural markets and are often the only source of roaming service supply to other providers. These carriers charge extremely high roaming rates and, to the extent they have any customers of their own, are able to get very favorable asymmetrical roaming rates from their roaming partners.

Carriers reacted to "tollgate" roaming rates by expanding into the tollgate markets to bring additional sources of supply to the market, or, in some cases, by acquiring the market from the license holder. As a result of this market response, many carriers that built their business largely depending on roaming revenues are now finding that their roaming revenue streams are drying up. Not surprisingly, these carriers are now complaining that their lost traffic and revenues are evidence of market failure. To the contrary, these carriers' lost revenues are the product of a properly functioning market.

With respect to small and rural carrier concerns that larger carriers are using their market power to demand asymmetric roaming rates, these arguments are incorrect with respect to Verizon Wireless. Among CDMA CMRS providers, Verizon Wireless is the largest carrier. Yet as discussed in Section I of these comments, Verizon Wireless does not have market power and does not use its size to obtain asymmetrical roaming agreements with small and rural carriers. Verizon Wireless has almost no roaming agreements where the roaming partner pays more per minute than what Verizon Wireless pays, and no reciprocal roaming agreements where a small or rural carrier pays more than what Verizon Wireless pays for roaming. Indeed, because small and rural service providers are often the only technologically compatible carriers in their markets, the most asymmetrical agreements that Verizon Wireless has – in terms of Verizon Wireless paying significantly more than it charges its roaming partner -- are agreements with small and rural service providers.

For these reasons, Verizon Wireless does not believe the small and rural service providers have concerns that need to be or should be addressed by FCC roaming regulation. In the event that a service provider believes it is being treated unreasonably, it can always attempt to remedy those situations through the FCC's complaint procedures.

B. The Commission Should Not Adopt Any Automatic Roaming Rules.

In the NPRM, the Commission seeks comment on a number of approaches to regulating automatic roaming.[16] Verizon Wireless does not believe there is any market failure for roaming services. Accordingly, it does not support any FCC automatic roaming regulation. As discussed above, any interference by the FCC with the competitive market will only deter the benefits of competition such as investment in technology and the spread of advanced services to rural markets.

For this reason, Verizon Wireless chooses not to comment at this time on most of the various regulatory alternatives raised by the FCC in the NPRM. However, there are issues raised by the Commission in this section of the NPRM that merit comment.

1. The Commission should not mandate home roaming.

The Commission asks whether any automatic roaming rule adopted should require a carrier to enter into roaming agreement with facilities-based carriers in the same market – so called "home roaming." It should not. Requiring home roaming would remove incentives for carriers to build out networks. A home roaming requirement would largely eliminate network quality, reliability and coverage as facets of CMRS competition.

For example, Verizon Wireless has spent billions to differentiate itself from its competitors by building the Nation's most reliable wireless network. Verizon

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[16] *Id.*, at 13-18.

Wireless does not generally offer home roaming because it does not want its competitors to be able to take advantage of Verizon Wireless' superior network in areas where they compete directly against Verizon Wireless. If Verizon Wireless were forced to make its network available to competitors in the same market, those competitors would have no incentive to build out their networks in order to match Verizon Wireless' quality, and network quality would cease to be a competitive factor among roaming partners.

2. The Commission should not adopt any roaming rule that gives preferential treatment to rural service providers.

The Commission seeks comment as to whether it should adopt automatic roaming regulations that favor rural carriers. In particular, the Commission seeks comment on proposals (1) to require carriers to make their networks available to all roaming partners on the same terms and conditions as they offer to their "most-favored" roaming partners; and (2) to require that small "Tier IV" carriers – defined as carriers with not more than 100,000 subscribers – are entitled to automatic roaming in rural markets with large, nationwide carriers at reasonable symmetrical rates.[17] Verizon Wireless opposes both of these proposals.

a) Most-favored nation roaming

As discussed in the opening section, the terms and conditions of automatic roaming agreements vary depending on a number of factors, most of which have

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[17] *Id.*, at 16-17.

nothing to do with carrier size. These factors include availability of supply, implementation of advanced technologies, geographic coverage within the market, and more. Carriers negotiating automatic roaming agreements understand these factors and modify their behavior accordingly. Thus, for example, if a carrier knows that roaming partners will pay more and/or charge less for CDMA service, then that carrier will have an incentive to upgrade older analog networks to CDMA digital service.

If the Commission were to adopt a most-favored nation roaming requirement, small and rural carriers would lose the incentive to make the type of changes to their networks that attract the best roaming rates. As a result, the pace of proliferation of advanced wireless services and expanded coverage in rural markets might slow considerably. Moreover, carriers negotiating roaming agreements would know that their lowest contract rates must be made available to all carriers. As a result, contract roaming rates would likely migrate to the average roaming rates a carrier now charges, and many roaming rates would necessarily increase.

Ironically, the small and rural service providers would be among the carriers most negatively affected by a most-favored nation roaming requirement. As stated in the opening section, due to the presence of a number of factors that carriers consider in negotiating roaming agreements, many rural carriers already enjoy Verizon Wireless' lowest rates. If those rates begin to migrate upward toward the industry average, these carriers will actually pay more for roaming. In addition, by far the most asymmetrical roaming agreements Verizon Wireless has are with rural carriers that are able to demand the most favorable roaming terms and require their partners to pay high rates. Surely these carriers would oppose any requirement that forced them to offer their lowest rates to every carrier.

b) Mandatory roaming entitlement for Tier IV carriers

A requirement that forced large carriers to offer automatic roaming agreements to carriers with 100,000 or fewer subscribers would be equally untenable. As discussed above, rural carriers that want automatic roaming agreements with Verizon Wireless are able to get those agreements. Moreover, the rates set forth in those agreements are either reciprocal or are asymmetrical in favor of the rural providers. Based on Verizon Wireless' experience, there is no basis for adopting an automatic roaming requirement that only benefits small rural carriers.

Moreover, imposing different obligations on competing CMRS providers would violate one of the cardinal precepts of the national deregulatory regime for wireless that Congress adopted in 1993 when it amended Section 332 of the Communications Act – symmetrical, consistent regulation of competing wireless providers. As the Commission recognized in one of its landmark orders implementing Congress' directive:

> In the Budget Act, Congress created the CMRS regulatory classification and mandated that similar commercial mobile radio services be accorded similar regulatory treatment under the Commission's rules. The broad goal of this action is to ensure that economic forces – not disparate regulatory burdens – shape the development of the CMRS marketplace. … The goals of the Budget

> Act serve as our guidepost for this task: (1) to create a level regulatory playing field for CMRS. [18]

The Commission thus modified many of its disparate rules that had applied to different mobile services, to make the rules consistent across services, finding that his action "furthers the statutory goal of promoting uniformity in CMRS regulation and, thereby, minimizes the potentially distorting effects of asymmetrical regulation."[19]

The Commission's implementation of Section 332 by requiring consistent regulation has contributed to the rapid and enormously successful deployment of CMRS across the nation, providing consumers with not only a choice of wireless as well as wireline services to communicate but also a choice among competing CMRS providers. Adopting disparate rules for directly competing CMRS providers cannot be squared with this hallmark principle of the

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18 Implementation of Sections 3(n) and 332 of the Communications Act, *Third Report and Order,* 9 FCC Rcd. 7988, 7993-95 (1994).

19 *Id,.* at 7995.

national regulatory regime. It would create the very "distorting effects of asymmetrical regulation" that the Commission has for years correctly avoided.

3. The Commission should not adopt requirements to mandate automatic roaming for analog or enhanced digital networks.

The Commission seeks comment on the issues older and newer technologies present with respect to automatic roaming.

a) Enhanced Data Network Roaming

With respect to enhanced digital networks, the Commission asks whether any roaming rule it adopts should apply to 2.5 or third generation digital networks.[20] Verizon Wireless opposes any such requirement.

Carriers are in various stages of building advanced digital networks and have invested billions of dollars to build these networks. Carriers have been willing to take those risks and make the investment because they believe that the services these advanced technologies enable them to provide give them competitive advantages. Indeed, carriers may not have been willing to take those risks and make those investments if Commission roaming policies required carriers immediately to offer the benefits of that investment to competing carriers. Because including advanced technology networks in any automatic roaming requirement would chill investment in such technologies, the Commission should not include enhanced digital networks in any roaming requirement it may decide to adopt.

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[20] *NPRM*, at 17-18.

b) Analog Roaming

The Commission asks whether, in light of the pending sunset of the analog requirement in February of 2008, it is necessary to extend any automatic roaming requirement it adopts to analog networks. The Commission also seeks comment as to what extent roaming options will be affected once the analog requirement no longer exists.[21] Analog-only carriers still exist and analog networks are relied upon for roaming in some rural markets. However, because Verizon Wireless continues to depend on analog roaming service for coverage in some markets, Verizon Wireless still has analog roaming agreements in place with carriers that have requested such agreements. Accordingly, an analog roaming requirement is not needed to ensure that analog-only carriers can obtain roaming agreements.

As discussed above, one of the factors that carriers consider in negotiating roaming agreements is the extent to which the roaming partner has deployed digital technologies that allow customers to take advantage of digital network-based services when they travel. Because carriers are generally willing to negotiate more favorable terms for digital networks, small rural carriers have a market incentive to update their networks. The sunset of the analog requirement and the potential effect that the analog sunset will have on the availability of roaming partners for analog only carriers provides another strong incentive for carriers in rural markets to implement digital technology and bring new services to rural customers. The

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[21] *Id.*, at 18.

best thing the FCC can do for customers in rural markets is to leave those incentives in place.

III. CONCLUSION

The FCC should not adopt any automatic roaming rule. The Commission's longstanding reliance on the competitive wireless market has worked to lower roaming costs, fuel investment in new technologies and provide incentives to spread the benefits of competing wireless services to rural America. Rural providers have not demonstrated that they are unable to obtain roaming agreements at competitive rates or that the recent wireless service provider mergers have had any significant effect on the roaming market. Accordingly, there are no small and rural service provider concerns that need to be or should be addressed by FCC roaming regulation.

Respectfully submitted,

VERIZON WIRELESS

By: John T. Scott, III

John T. Scott, III
Vice President and Deputy General
Counsel – Regulatory Law

Andre J. Lachance
Regulatory Counsel

Verizon Wireless
1300 I Street, N.W., Suite 400-West
Washington, D.C. 20005
(202) 589-3760

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